

REMARKS

Currently Claims 1-16, 18-28, 55 and 56 are pending and stand rejected under the Office Action mailed March 7, 2007. (Applicants note that Claim 17 was also stated to be pending in the Office Action summary, but this claim was cancelled in the amendment of December 1, 2006.) In view of the above amendment and the following remarks, reconsideration is respectfully requested.

Rejection under 35 USC § 112, First Paragraph

Claims 1-3, 6-8, 10-16, 19, 21, 23, 26, 28 and 55-56 were rejected under 35 USC § 112, First Paragraph because the specification, while acknowledged as enabling for the inhibition of pain, effecting mydriasis, and/or decreasing intraocular pressure ("IOP") during an ophthalmologic procedure, does not reasonably provide enablement for treating or inhibiting inflammation generally. Applicants do not seek to claim inhibiting inflammation generally, but only the perioperative inhibition of inflammation of the eye (and/or pain inhibition, mydriasis, IOP reduction). Applicants have accordingly amended each of the independent claims for clarity, noting that the anti-inflammatory aspect of the invention addresses the inhibition of "ocular inflammation". Applicants respectfully submit that this rejection has been overcome.

Nonstatutory Obviousness-Type Double Patenting Rejection

Claims 1 and 28 are rejected for nonstatutory obviousness-type double patenting based on various claims of commonly owned US Patents 6,261,279, 6,413,961 and 6,420,432, all in view of Revision of Pharmacology ("ROP", Reference ID O01191). Each of these noted US Patents were previously addressed in the prior amendment as claiming anti-inflammatory and/or anti-pain agents, but in no cases claiming mydriatic agents or agents for reducing intraocular pressure as claimed in the methods of Claims 1 and 28.

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This deficiency of the referenced commonly owned patents was acknowledged in the Office Action, and accordingly the Office Action relies on the ROP reference for the teaching that “anti-histamines dilate capillaries, which would obviously result in mydriasis when applied directly to ocular tissues.” Applicants respectfully traverse the rejection. The antihistamines used in the primary cited commonly owned patents are not mydriatic agents, nor does the ROP reference teach this interpretation. The ROP reference discloses:

Antihistamines

Histamine released at mast cell degranulation:

- Dilates capillaries
- Increases vascular permeability

...

ROP reference at p. 29

From this disclosure, it is evident that the ROP reference does *not* teach that *antihistamines* (such as used in the primary cited commonly owned patents) cause capillary dilation and mydriasis, but rather just the opposite. *Histamine* causes capillary dilation, and accordingly *antihistamines inhibit* the capillary dilation caused by histamines.

Accordingly, it is respectfully submitted that present claims 1 and 28 are not obvious over the claims of the commonly owned cited patents, alone or in view of the ROP reference.

Closure

All other prior rejections having been previously withdrawn, and in view of the above amendment and remarks addressing the new rejection, Applicants respectfully request reconsideration and allowance of all pending claims, inclusive of Claims 1-16, 18-28, 55 and 56.

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Should the Examiner have any questions or wish to discuss any matter, he is invited to telephone the undersigned attorney.

Respectfully Submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

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